

ENTERED

February 03, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

VS.

7.226 ACRES OF LAND, more or less, in STARR COUNTY, TEXAS; LEGACY ADVANCE DEVELOPMENT PARTNERS, LTD.; BBVA USA; and AMEIDA SALINAS, Starr County Tax Assessor-Collector,

Defendants.

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CIVIL ACTION NO. 7:20-cv-00361

ORDER

The Court now considers the “Notice of Disclaimer Executed by Ameida Salinas, Starr County Tax Assessor-Collector”¹ and “Plaintiff’s Opposed Motion for a Continuance of the Joint Discovery/Case Management Plan and the Initial Pretrial and Scheduling Conference Pursuant to Fed. R. Civ. P. 26(f).”

I. DISCLAIMER

In the disclaimer attached to the notice, Defendant Ameida Salinas, in her capacity as the Starr County, Texas, Tax Assessor-Collector “disclaims any right, title, claim or interest” in the property that is the subject of this eminent domain proceeding, disclaims any right to just compensation to be paid for the subject property, and requests to be dismissed from this action.²

Under Federal Rule of Civil Procedure 71.1(i)(2), the Court may at any time dismiss an unnecessarily or improperly joined Defendant, or any Defendant that has no interest in the

¹ Dkt. No. 23.

² Dkt. No. 23-1 at 1.

property to be condemned.³ The Court reviewed the disclaimer and finds it to be duly executed. The Court thus finds good cause for dismissing the disclaimed Defendant from this case and accordingly **DISMISSES** Defendant Ameida Salinas, Starr County Tax Assessor-Collector from this case and instructs the Clerk of the Court to terminate this Defendant as a party to this case. The Court now turns to the motion for a continuance.

II. CONTINUANCE

The parties' initial pretrial and scheduling conference is scheduled for February 16, 2021.⁴ Plaintiff United States filed the instant motion for a continuance of the conference on February 1st.⁵ Therefore, the opposed motion will not be ripe until after the conference the United States seeks to continue.⁶ However, the only reason the motion is "opposed" is because Defendant BBVA USA did not respond to attempts to contact them on two different days.⁷ Defendant Legacy Advance Development Partners is unopposed.⁸ Therefore, the Court will treat the instant motion as unopposed and consider it *instanter*.

The United States requests a continuance of the February 16, 2021, initial pretrial and scheduling conference and its associated joint discovery/case management plan deadline in light of President Biden's January 20th proclamation concerning the border wall.⁹ The President's proclamation directs numerous heads of executive agencies to "pause work on each construction project on the southern border wall" and to "develop a plan for the redirection of funds concerning the southern border wall . . . within 60 days" from January 20th.¹⁰ The Court finds

³ FED. R. CIV. P. 71.1(i)(2); *see id.* advisory committee's note to 1951 amendment ("[T]he court may at any time drop a defendant who has been unnecessarily or improperly joined as where it develops that he has no interest.").

⁴ Dkt. No. 11.

⁵ Dkt. No. 24.

⁶ *See* LR7.3 (opposed motions are submitted after 21 days).

⁷ Dkt. No. 24 at 3.

⁸ *Id.*

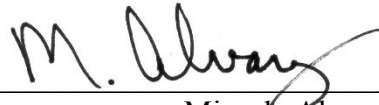
⁹ *Id.* at 2, ¶¶ 4–6.

¹⁰ Proclamation No. 10142, §§ 1–2, 86 Fed. Reg. 7,225, 2021 WL 197402 (Jan. 20, 2021).

good cause in the parties' request that this eminent domain proceeding be abated while the United States develops its plan concerning the border and associated land use. The Court **GRANTS** Plaintiff's motion¹¹ and continues the initial pretrial and scheduling conference previously set for February 16th to **April 13, 2021, at 9:00 a.m.** The joint discovery/case management plan is due no later than **April 2, 2021.**

IT IS SO ORDERED.

DONE at McAllen, Texas, this 3rd day of February 2021.

A handwritten signature in black ink, appearing to read 'M. Alvarez', is written over a horizontal line.

Micaela Alvarez
United States District Judge

¹¹ Dkt. No. 24.